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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,926	09/11/2003	Mazen Chmaytelli	990545	8382

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QUALCOMM INCORPORATED
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EXAMINER	
HALIYUR, VENKATESH N	
ART UNIT	PAPER NUMBER
2619	

NOTIFICATION DATE	DELIVERY MODE
05/15/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/661,926	CHMAYTELLI ET AL.	
	Examiner	Art Unit	
	VENKATESH HALIYUR	2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 March 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/03/2008 has been entered.

2. Claims 1-31 are pending in the application.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 11-20 are rejected under 35 U.S.C. 101 because the claims are directed to non-statutory subject matter.

Regarding claims 11-20, Claim 11 is directed to "A computer-implemented method for responding to incoming communication connection attempts at a wireless device, the method comprising: ..." which fails to meet 101 guidelines set forth therein. Independent claims 11 and 20 are claiming software in the form

of a computer-implemented method. Such claimed computer implemented method or software program do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In order for a computer-implemented method or a computer program product or software instructions to be statutory it must be embodied (encoded) in a computer readable medium with the instructions capable of being executed by a computer (please refer to pages 52-54 of the 101 guidelines for further details). Claims 11-19 are also rejected since they depend from claim 11 and contains the same deficiency. Therefore the claimed application in claims 11-20 is nothing but a software application and therefore claims 11-20 are non-statutory.

It is well established as evidenced above that a computer-implemented method or a software application or a computer program, per se is not a physical "thing".

Thus, claims 11-20 are non-statutory since the patent protection sought by the claimed invention is for the computer program in the abstract.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> a. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. [US Pub: 2003/0112952] in view of Payne et al. [7,003,327].

Regarding claim 1, Brown et al in the invention of "Automatically Establishing a Telephone Connection Between a Subscriber and a Party Meeting One or More Criteria" disclosed a wireless device **(Figs 5/6, para 0152-0153, 0168-169)** comprising: having a processor **(item 530 of Fig 5)**; a wireless communication interface **(item 528 of Fig 5)**, coupled to said processor, wherein the wireless communication interface selectively receives **(filter or screen calls, para 0094)** an attempted incoming communication connection across a wireless network, and a memory **(para 0018),** coupled to said processor **(para 0045-0047)**, wherein the processor is operable to **(para 0033-0037, Fig 1)**: classify **(item 524 of Fig 5, para 0091)** the attempted incoming communication connection using identifying information of the attempted incoming **(caller identification)** communication connection **(para 0090-0092)**; and perform a predetermined response to the attempted incoming communication connection based upon a classification of the attempted incoming communication connection **(para 0093-0098).** Brown et al, disclosed that PDA, wireless telephone (wireless device) may comprise call processor **(item 120b of Fig 1, para 0047)** and the classification process in the wireless device (**0057-0063)** but Brown et al fails to explicitly disclose that the processor is located at a wireless device. However, Payne et al in the invention of "Heuristically Assisted User Interface for a

Wireless Communication Device" disclosed a mobile device **(item 300 of Fig 3)** including the wireless communication interface coupled to a processor, and the memory coupled to the processor module for performing processing tasks **(col 9, lines 38-67, col 10, lines 1-29)** to provide predetermined responses based on the incoming service request **(col 10, lines 30-67, col 11, lines 1-57, Fig 4) .** Therefore it would have been obvious for one of the ordinary skill in the art at the time the invention was made to use the method of including a processor coupled to the memory and the client module for performing processing tasks in the wireless device as taught by Payne et al in the system of Brown et al to include a processor coupled to a memory and a classifier in the wireless device to classify the incoming communication connection and to generate a predetermined response. One is motivated as such in order to provide an automatic predetermined response to improve the call handling ability based on the classification and identification of the incoming call at a wireless device **(Payne et al, col 13, lines 22-33).**

Regarding claims 2-3,12-13,22-23, Brown et al disclosed that the predetermined response is to block **(filter or screen calls)** the attempted incoming communication connection attempt and the predetermined response includes an audio response **(voice message/mail)** to the attempted incoming communication connection **(para 0094)**.

Regarding claim 4,14,24, Brown et al disclosed that the predetermined response is to request user input as to whether to accept the attempted incoming communication connection **(para 0032-0033, 0039-0042)**.

Regarding claim 5,15,25, Brown et al disclosed that the predetermined response is to return a data response to the attempted incoming communication connection **(para 0124).**

Regarding claim 6,16,26, Brown et al disclosed that the classification of the attempted incoming communication connection occurs from identifying the telephone number of a calling telephone making the attempted incoming communication connection to the device **(para 0037)**.

Regarding claims 7-8,17-18,27-28, Brown et al disclosed that the classification occurs through the receipt of Caller ID for the attempted incoming communication connection and the classification occurs through the receipt of identity data within the attempted incoming communication connection **(para 0091-0093)**.

Regarding claim 9,19,29, Brown et al disclosed that the predetermined response is to send a short messaging service **(SMS)** message to the device making the attempted incoming communication connection **(para 0124)**.

Regarding claim 10, Brown et al disclosed a computer wireless device **(system 500, Fig 5)**, comprising: means for selectively receiving **(filter or screen calls)** an attempted incoming communication connection across a wireless network **(Fig 1)**; means for classifying **(item 524 of Fig 5)** the attempted

incoming communication connection using identifying information of the attempted incoming communication connection **(para 0090-0092, 0168)**; and means for performing a predetermined response to the attempted incoming communication connection based upon a classification of the attempted incoming communication connection **(para 0093-0098, 0170)**. Brown et al, disclosed that PDA, wireless telephone (wireless device) may comprise call processor **(item 120b of Fig 1, para 0047)** and the classification process in the wireless device (**0057-0063)** but Brown et al fails to explicitly disclose that the processor is located at a wireless device. However, Payne et al disclosed a mobile device **(item 300 of Fig 3)** including the wireless communication interface coupled to a processor, and the memory coupled to the processor module for performing processing tasks **(col 9, lines 38-67, col 10, lines 1-29)** to provide predetermined responses based on the incoming service request **(col 10, lines 30-67, col 11, lines 1-57, Fig 4) .** Therefore it would have been obvious for one of the ordinary skill in the art at the time the invention was made to use the method of including a processor coupled to the memory and the client module for performing processing tasks in the wireless device as taught by Payne et al in the system of Brown et al to include a processor coupled to a memory and a classifier in the wireless device to classify the incoming communication connection and to generate a predetermined response. One is motivated as such in order to provide an automatic predetermined response to improve the call

handling ability based on the classification and identification of the incoming call at a wireless device **(Payne et al, col 13, lines 22-33).**

Regarding claims 11,20 Brown et al disclosed a computer-implemented method for responding to incoming communication connection attempts at a wireless device **(system 500, Fig 5)** the method comprising **(para 0017-0018, 00152)**: receiving an attempted incoming communication connection across a wireless network, classifying the attempted incoming communication connection using identifying information **(caller identification)** of the attempted incoming communication connection **(par 0090-0092, 0153)**; and performing a predetermined response to the attempted incoming communication connection based upon a classification of the attempted incoming communication connection **(para 0093-0098, 0154, Fig 1)**. Brown et al, disclosed that PDA, wireless telephone (wireless device) may comprise call processor **(item 120b of Fig 1, para 0047)** and the classification process in the wireless device (**0057-0063)** but Brown et al fails to explicitly disclose that the processor is located at a wireless device. However, Payne et al disclosed a mobile device **(item 300 of Fig 3)** including the wireless communication interface coupled to a processor, and the memory coupled to the processor module for performing processing tasks **(col 9, lines 38-67, col 10, lines 1-29)** to provide predetermined responses based on the incoming service request **(col 10, lines 30-67, col 11, lines 1-57, Fig 4) .** Therefore it would have been obvious for one of the ordinary skill in the art at the time the invention was made to use the method of including a processor coupled

to the memory and the client module for performing processing tasks in the wireless device as taught by Payne et al in the system of Brown et al to include a processor coupled to a memory and a classifier in the wireless device to classify the incoming communication connection and to generate a predetermined response. One is motivated as such in order to provide an automatic predetermined response to improve the call handling ability based on the classification and identification of the incoming call at a wireless device **(Payne et al, col 13, lines 22-33).**

Regarding claim 21, Brown et al disclosed a computer-readable medium comprising instructions, which when executed by a computer in a wireless device causes the computer to perform operations, the instructions comprising **(para 0017-0018)**: at least one instruction for receiving an attempted incoming communication connection from another device across a wireless network **(Fig 1)**; at least one instruction for classifying the attempted incoming communication connection using identifying information **(caller identification)** of the attempted incoming communication connection **(para 0090-0092)**; and at least one instruction for performing a predetermined response to the attempted incoming communication connection based upon a classification of the attempted incoming communication connection **(para 0093-0098)**. Brown et al, disclosed that PDA, wireless telephone (wireless device) may comprise call processor **(item 120b of Fig 1, para 0047)** and the classification process in the wireless device (**0057-0063)** but Brown et al fails to explicitly disclose that the processor is located at a

wireless device. However, Payne et al disclosed a mobile device **(item 300 of Fig 3)** including the wireless communication interface coupled to a processor, and the memory coupled to the processor module for performing processing tasks **(col 9, lines 38-67, col 10, lines 1-29)** to provide predetermined responses based on the incoming service request **(col 10, lines 30-67, col 11, lines 1-57, Fig 4) .** Therefore it would have been obvious for one of the ordinary skill in the art at the time the invention was made to use the method of including a processor coupled to the memory and the client module for performing processing tasks in the wireless device as taught by Payne et al in the system of Brown et al to include a processor coupled to a memory and a classifier in the wireless device to classify the incoming communication connection and to generate a predetermined response. One is motivated as such in order to provide an automatic predetermined response to improve the call handling ability based on the classification and identification of the incoming call at a wireless device **(Payne et al, col 13, lines 22-33).**

Regarding claims 30-31, Brown et al disclosed wherein the process is further operable to: provide a default response to a calling party that is attempting the attempted incoming communication connection, if the processor cannot classify the attempted incoming communication connection, the default response not being an establishment of a connection between the calling party and the wireless device wherein the default response is an audio message configured for unidentified calling parties **(default to voice mail system, para 0094).**

Response to Arguments

7. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection made in this office action in view of Brown et al and Payne et al.

Conclusion

8. Any inquiry concerning this communication or earlier communications should be directed to the attention to Venkatesh Haliyur whose phone number is 571-272-8616. The examiner can normally be reached on Monday-Friday from 9:00AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached @ (571)-272-7884. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2600 or fax to 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

/Venkatesh Haliyur/

Examiner, Art Unit 2619

/Edan Orgad/

Supervisory Patent Examiner, Art Unit 2619